

§ 533.6

§ 533.6 Measurement and calculation procedures.

(a) Any reference to a class of light trucks manufactured by a manufacturer shall be deemed—

(1) To include all light trucks in that class manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

(2) To exclude all light trucks in that class manufactured (within the meaning of paragraph (a)(1) of this section) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

(b) The average fuel economy of all nonpassenger automobiles that are manufactured by a manufacturer and are subject to § 533.5(b) or to § 533.5(c) shall be determined in accordance with procedures established by the Administrator of the Environmental Protection Agency under section 503(a)(2) of the Act.

[42 FR 13807, Mar. 14, 1977, as amended at 43 FR 12013, Mar. 23, 1978]

PART 534—RIGHTS AND RESPONSIBILITIES OF MANUFACTURERS IN THE CONTEXT OF CHANGES IN CORPORATE RELATIONSHIPS

Sec.

534.1 Scope.

534.2 Applicability.

534.3 Definitions.

534.4 Successors and predecessors.

534.5 Manufacturers within control relationships.

534.6 Reporting corporate transactions.

535.7 Situations not directly addressed by this part.

AUTHORITY: 49 U.S.C. 32901; delegation of authority at 49 CFR 1.50.

SOURCE: 69 FR 77671, Dec. 28, 2004, unless otherwise noted.

§ 534.1 Scope.

This part defines the rights and responsibilities of manufacturers in the context of changes in corporate relationships for purposes of the automotive fuel economy program established by 49 U.S.C. Chapter 329.

49 CFR Ch. V (10–1–05 Edition)

§ 534.2 Applicability.

This part applies to manufacturers of passenger automobiles and non-passenger automobiles.

§ 534.3 Definitions.

(a) *Statutory definitions and terms.* All terms used in 49 U.S.C. Chapter 329 are used according to their statutory meaning.

(b) As used in this part—

“Control relationship” means the relationship that exists between manufacturers that control, are controlled by, or are under common control with, one or more other manufacturers.

“Predecessor” means a manufacturer whose rights have been vested in and whose burdens have been assumed by another manufacturer.

“Successor” means a manufacturer that has become vested with the rights and assumed the burdens of another manufacturer.

§ 534.4 Successors and predecessors.

For purposes of the automotive fuel economy program, “manufacturer” includes “predecessors” and “successors” to the extent specified in paragraphs (a) through (d) of this section.

(a) Successors are responsible for any civil penalties that arise out of fuel economy shortfalls incurred and not satisfied by predecessors.

(b) If one manufacturer has become the successor of another manufacturer during a model year, all of the vehicles produced by those manufacturers during the model year are treated as though they were manufactured by the same manufacturer. A manufacturer is considered to have become the successor of another manufacturer during a model year if it is the successor on September 30 of the corresponding calendar year and was not the successor for the preceding model year.

(c) Credits earned by a predecessor may be used by a successor, subject to availability of the credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(d) Credits earned by a successor may be used to offset a predecessor's shortfall, subject to availability of the credits and the general three-year restriction on carrying credits backward.

§ 534.5 Manufacturers within control relationships.

(a) If a civil penalty arises out of a fuel economy shortfall incurred by a group of manufacturers within a control relationship, each manufacturer within that group is jointly and severally liable for the civil penalty.

(b) A manufacturer is considered to be within a control relationship for an entire model year if and only if it is within that relationship on September 30 of the calendar year in which the model year ends.

(c) Credits of a manufacturer within a control relationship may be used by the group of manufacturers within the control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward.

(d) If a manufacturer within a group of manufacturers is sold or otherwise spun off so that it is no longer within that control relationship, the manufacturer may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits and the general restriction on carrying credits forward or backward.

(e) Agreements among manufacturers in a control relationship related to the allocation of credits or liabilities addressed by this section shall be filed with the agency within 60 days of the end of each model year in the same form as specified in section 534.6. The manufacturers may seek confidential treatment for information provided in the certified report in accordance with 49 CFR Part 512.

§ 534.6 Reporting corporate transactions.

Manufacturers who have entered into written contracts transferring rights and responsibilities such that a different manufacturer owns the control-

ling stock or exerts control over the design, production or sale of automobiles to which a Corporate Average Fuel Economy standard applies shall report the contract to the agency as follows:

(a) The manufacturers must file a certified report with the agency affirmatively stating that the contract transfers rights and responsibilities between them such that one manufacturer has assumed a controlling stock ownership or control over the design, production or sale of vehicles. The report must also specify the first full model year to which the transaction will apply.

(b) Each report shall—

(i) Identify each manufacturer;

(ii) State the full name, title, and address of the official responsible for preparing the report;

(iii) Identify the production year being reported on;

(iv) Be written in the English language; and

(v) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(c) The manufacturers may seek confidential treatment for information provided in the certified report in accordance with 49 CFR part 512.

§ 534.7 Situations not directly addressed by this part.

To the extent that this part does not directly address an issue concerning the rights and responsibilities of manufacturers in the context of a change in corporate relationships, the agency will make determinations based on interpretation of the statute and the principles reflected in the part.

PART 535—3-YEAR CARRYFORWARD AND CARRYBACK OF CREDITS FOR LIGHT TRUCKS

Sec.

535.1 Scope.

535.2 Applicability.

535.3 Definitions.

535.4 3-year carryforward and carryback of credits.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2001); sec. 6, Pub. L. 96-425, 94 Stat. 1821 (15 U.S.C. 2002); delegation of authority at 49 CFR 1.50.